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3
4 BILL NO. S-73-02-15

5 SPECIAL ORDINANCE NO. S- 11-73

6 AN ORDINANCE authorizing the Board of
7 Public Works to bid at a foreclosure
8 sale of properties belonging to INDIANA
SUBURBAN SEWERS, INC. and SUBURBAN
SERVICES, INC.

9 WHEREAS, it is essential to the present and future
10 health, and to the future development, of the City of Fort Wayne,
11 that the City and its environs be served with an adequate sewage
12 disposal system operating under sound and financially responsible
13 management; and

14 WHEREAS, as long ago as the mid-1960's the City of
15 Fort Wayne had received many requests to extend its sewer services
16 into an area in Adams and Marion Townships lying southeast of its
17 municipal limits and south of the Maumee River, which area even
18 then suffered from a sewage pollution problem and which area is
19 more specifically described in Exhibit A attached hereto; and

20 WHEREAS, the City of Fort Wayne had proposed to con-
21 struct an interceptor sewer in the northern portion of said area,
22 which construction was contingent upon certain federal funds be-
23 coming available, which contingency did not occur; and

24 WHEREAS, when it was learned that federal funds would
25 not be available for the construction of said interceptor sewer,
26 the City of Fort Wayne entered into an agreement with INDIANA
27 SUBURBAN SEWERS, INC., which agreement was dated March 17, 1966
28 and which agreement was approved in Special Ordinance 280-66
29 which ordinance was adopted by the Common Council of the City of
30 Fort Wayne on April 29, 1966; and

31 WHEREAS, said agreement provided, in general, that
32 INDIANA SUBURBAN SEWERS, INC. would construct a sewer system
33 within the aforesaid area; that said system would conform with
34 the standards and specifications of the City of Fort Wayne; that
35 the City of Fort Wayne would treat sewage collected by INDIANA
SUBURBAN SEWERS, INC. within the aforesaid area; that INDIANA

SUBURBAN SEWERS, INC. would compensate the City of Fort Wayne for such treatment; and that the City of Fort Wayne would have an option to purchase the sewer system of INDIANA SUBURBAN SEWERS, INC. within the aforesaid territory; and

WHEREAS, said agreement was approved by the Public Service Commission of Indiana, subject to certain exceptions not here material, by Order dated September 1, 1967 in Cause No. 31154; and

WHEREAS, INDIANA SUBURBAN SEWERS, INC. entered into an agreement with SUBURBAN SERVICES, INC. under which the latter was to construct the sewage disposal system contemplated by the aforesaid agreement between the City of Fort Wayne and INDIANA SUBURBAN SEWERS, INC. ; and

WHEREAS, the construction work on said sewer system had progressed to such a point that INDIANA SUBURBAN SEWERS, INC. was rendering sewage disposal service within the aforesaid area by the year 1969; and,

WHEREAS, the City of Fort Wayne began, in 1969, to treat sewage collected by INDIANA SUBURBAN SEWERS, INC.; and

WHEREAS, the City of Fort Wayne and INDIANA SUBURBAN SEWERS, INC. have been engaged in controversy as to the compensation INDIANA SUBURBAN SEWERS, INC. is to pay the City of Fort Wayne for treatment of sewage; and

WHEREAS, INDIANA SUBURBAN SEWERS, INC. has paid no compensation to the City of Fort Wayne for treating its sewage; and

WHEREAS, INDIANA SUBURBAN SEWERS, INC. and SUBURBAN SERVICES, INC. have become delinquent in their accounts with certain secured creditors; and

WHEREAS, for many months the City of Fort Wayne has been concerned over the slowness with which construction of the sewer system was progressing and the City of Fort Wayne has been

receiving, and continues to receive, requests for sewer service from persons situated within the aforesaid area described in Exhibit A; and

WHEREAS, the financial difficulties of INDIANA SUBURBAN SEWERS, INC. and SUBURBAN SERVICES, INC. had become so serious by the winter of 1970-71 that the City of Fort Wayne, and INDIANA SUBURBAN SEWERS, INC. began negotiations looking toward the amendment of the aforesaid agreement so as to permit the City to purchase a portion of the aforesaid sewer system, thus providing funds with which INDIANA SUBURBAN SEWERS, INC. could meet its obligations in part, and thus providing Fort Wayne with operating control over a portion of said system and the right to receive and obtain all revenues accruing from the operation of such portion; and

WHEREAS, the City of Fort Wayne and INDIANA SUBURBAN SEWERS, INC. entered into an agreement signed by the Board of Public Works of the City of Fort Wayne under date of November 23, 1971, accepted by INDIANA SUBURBAN SEWERS, INC. under date of December 6, 1971, and approved in Special Ordinance No. S-773-71 adopted by the Common Council of the City of Fort Wayne on December 28, 1971; and

WHEREAS, said agreement, among other things, would have effected an amendment of the earlier agreement between the City of Fort Wayne and INDIANA SUBURBAN SEWERS, INC. and would have permitted the City of Fort Wayne to purchase a portion of the aforesaid sewer system for the sum of One Million Thirty Seven Thousand Dollars (\$1,037,000), against which delinquent service charges were to be credited; and,

WHEREAS, said purchase price was based upon an appraisal by H.B. Steeg and Associates in the fall of 1970, which appraisal has been reviewed and approved by the City Engineer and which sum was nearly Six Hundred Thousand Dollars (\$600,000.00) less than the sum requested by INDIANA SUBURBAN SEWERS at the beginning of

such negotiations; and

WHEREAS, the parties became embroiled in controversy before the Public Service Commission of Indiana with regard to the description to the portion of the aforesaid sewer system which would have been sold pursuant to said agreement executed in 1971; and

WHEREAS, by order dated December 22, 1972, in Cause No. 32 876 said Public Service Commission of Indiana refused to approve said agreement executed in 1971; and

WHEREAS, on December 20, 1972 the Allen Superior Court had entered judgment against INDIANA SUBURBAN SEWERS, INC. and SUBURBAN SERVICES, INC., in Cause No. S-72-148, which action was captioned American Fletcher National Bank and Trust Company, plaintiff vs. Indiana Suburban Sewers, Inc. and Suburban Services, Inc., defendants and John Dehner, Inc., defendant and cross-complainant; and

WHEREAS, said judgment ordered that American Fletcher National Bank and Trust Company recover from INDIANA SUBURBAN SEWERS, INC. and SUBURBAN SERVICES, INC. jointly and severally the sum of Eight Hundred Ninety-Five Thousand Six Hundred Forty-Four Dollars and Thirty-One Cents (\$895,644.31), together with interest and costs, and said judgment further ordered that JOHN DEHNER, INC. recover from INDIANA SUBURBAN SEWERS, INC. and SUBURBAN SERVICES, INC., jointly and severally, the sum of One Hundred Fifty-Four Thousand Eight Hundred Eighty Dollars and Thirty-Five Cents (\$154,880.35); and

WHEREAS, said judgment further ordered the sale on foreclosure of all real estate, including without limitation, easements, rights of way, and other interests which have been acquired for the purpose of installing a sewage disposal system, and all property of any and every kind whatsoever, both real and personal, including without limitation, all pipes, sewers, .

interceptors, mains, laterals, manholes, meters, valves and all connections and appurtenances thereto, which have been constructed, and all chattels, fixtures, and intangibles which have been acquired, within the rural area southeast of the City of Fort Wayne, Indiana, which has been franchised to Indiana Suburban Sewers, Inc., as a public utility, in Certificate of Territorial Authority No. 61 issued by the Public Service Commission of Indiana on September 1, 1967, in PSCI Cause No. 31154, and also including said Certificate of Territorial Authority and all franchise rights thereunder, which is set forth in the mortgage recorded January 13, 1969, in the office of the Recorder of Allen County, Indiana, as Instrument No. 723 in Book 932 at pages 361 and following, and all right, title, interest and claims of the defendants Indiana Suburban Sewers, Inc., and Suburban Services, Inc., and of all persons claiming by, from, under or through them to said mortgaged property; and

WHEREAS, the purchase of said property on foreclosure by the City of Fort Wayne would enable the City to begin operating so much of the sewer system as is completed, and to complete and operate the remainder of said system, thereby permitting the City to receive the revenues derived from said operation and freeing the City from dependence upon INDIANA SUBURBAN SEWERS, INC. as to the operation and speed of construction of the sewer system, from additional controversy with INDIANA SUBURBAN SEWERS, INC.; and

WHEREAS, there are adequate funds in the depreciation account of the Sewer Utility of the City of Fort Wayne to pay the aforesaid price of One Million Thirty-Seven Thousand Dollars (\$1,037,000.00) for said property; and

WHEREAS, the Common Council of the City of Fort Wayne has previously adopted an ordinance authorizing the purchase of the above described property and wishes to rectify the purpose of

Said ordinance, to acknowledge the fact that the delinquent sewer charges owed the City of Fort Wayne by INDIANA SUBURBAN SEWERS will represent only a small part of the purchase price and that additional funds will be required in a substantial amount from the depreciation account of the Sewer Utility of the City of Fort Wayne; and

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. The Board of Public Works of the City of Fort Wayne is hereby authorized to purchase all the above described property to be sold at the foreclosure sale to be held by the Sheriff of Allen County, Indiana pursuant to the aforesaid judgment for a sum not to exceed One Million Thirty Seven Thousand Collars (\$1,037,000.00), which money shall be taken from the depreciation fund of the Sewer Utility of the City of Fort Wayne;

SECTION 2. The rates to be charged the several classes of users or property served shall be comparable to those charged other users and property in like circumstances.

SECTION 3. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor and legal publication thereof.


Councilman

APPROVED AS TO FORM
AND LOCALITY.

CITY ATTORNEY

Read the first time in full and on motion by _____, seconded by _____, and duly adopted, read the second time by title and referred to the Committee on _____ (and to the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 197____, at _____ o'clock P.M., E.S.T.

Date: 2/13/73

Charles W. Wintfield
CITY CLERK

Read the third time in full and on motion by Hinga, seconded by Stier, and duly adopted, placed on its passage.

Passed (~~last~~) by the following vote:

	AYES <u>9</u>	NAYS <u>0</u>	ABSTAINED _____	ABSENT _____ to-wit:
BURNS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINGA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
KRAUS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NUCKOLS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MOSES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SCHMIDT, D.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SCHMIDT, V.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
STIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TALARICO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date: 2-13-73

Charles W. Wintfield
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. A-11-73 on the 13th day of February, 1973.

ATTEST:

(SEAL)

Charles W. Wintfield
CITY CLERK

Winfred C. Wingo, JR.
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of February, 1973, at the hour of 10:00 o'clock A. M., E.S.T.

Charles W. Wintfield
CITY CLERK

Approved and signed by me this 14th day of February, 1973, at the hour of 3:00 o'clock P. M., E.S.T.

John A. Leonard
MAYOR

SUSPENSION OF RULES

BILL NO. D-73-02-15

Councilman Kenja, moved to suspend the rules on passage of BILL NO. D-73-02-15, at this meeting of Feb. 13, 1973, of the Common Council of the City of Fort Wayne, Indiana. Said motion was seconded by Councilman Stier, and duly passed by unanimous vote of all legally elected members of the said Common Council.

The above BILL and Specie ORDINANCE was accordingly placed on its passage.

DATE: 2-13-73

W. J. Feld. Weiss Jr.
PRESIDING OFFICER

Charles W. Westerman
CITY CLERK

	<u>4</u> <u>AYES</u>	<u>0</u> <u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT</u>
<u>BURNS</u>	<u>✓</u>	—	—	—	—
<u>HINGA</u>	<u>✓</u>	—	—	—	—
<u>KRAUS</u>	<u>✓</u>	—	—	—	—
<u>NUCKOLS</u>	<u>✓</u>	—	—	—	—
<u>MOSES</u>	<u>✓</u>	—	—	—	—
<u>D. SCHMIDT</u>	<u>✓</u>	—	—	—	—
<u>V. SCHMIDT</u>	<u>✓</u>	—	—	—	—
<u>STIER</u>	<u>✓</u>	—	—	—	—
<u>TALARICO</u>	<u>✓</u>	—	—	—	—

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as Specie Ordinance No. D-73-02-15

ATTEST: (SEAL)

DATE: 2-13-73

Charles W. Westerman
CITY CLERK

EXHIBIT A

Parts of Adams Township and Marion Township located in Allen County, Indiana, consisting of approximately 7,700 acres being described in detail as follows:

Beginning at a point located on the South bank of the Maumee River and on the West line of Section 9, T 30 N, R 13 E; thence Easterly following the meanderings of the South bank of the Maumee River to the Parrot Road; thence continuing Easterly along the Parrot Road to the common property line between properties now or formerly owned by Terminal Service and Betty A. and B. G. Hiscox; thence South on said common property line to the N.Y.C. Railroad; thence Easterly along the N.Y.C. Railroad to the East line of Section 10, T 30 N, R 13 E; thence South on the said East line of Section 10 to the Norfolk & Western Railroad; thence Westerly along said railroad to the Northerly extension of Meadowbrook Drive; thence South on said extension to U.S. 24; thence West on U.S. 24 to the Northerly extension of the West line of Meadowbrook Addition; thence South on said West line to the South line of Section 10, T 30 N, R 13 E; thence East on said South line of Section 10 to the Northeast corner of Section 15 in T 30 N, R 13 E; thence South on the said East line of Section 15 to Seiler Road; thence continuing South on the East line of Section 22, T 30 N, R 13 E, to the Pennsylvania Railroad; thence Northwesterly along the Pennsylvania Railroad to the East and West centerline of said Section 22; thence Westerly on said East and West centerline of Section 22 to the center of said Section 22; thence South on the North and South centerline of said Section 22 to the North line of the SE 1/4 of the SW 1/4 of said Section 22; thence West on said North line to the West line of the East half of the SW 1/4 of said Section 22; thence South on said West line to Paulding Road; thence continuing South on the East line of the West 1/2 of the NW 1/4 of Section 27, T 30 N, R 13 E to the East and West centerline of said Section 27; thence West on said East and West centerline of Section 27 to the Northwest corner of a 50.37 acre property now or formerly owned by Clarence F. and E. E. Koenig; thence South on the West line of said property to Tillman Road; thence East along Tillman Road to the common property line now or formerly owned by Clement H. and F. Smith and Paul H. and R. Seddelmeyer; thence South on said common property line and the Southerly extension thereof to Maples Road; thence East on Maples Road to the North and South centerline of Section 3, T 29 N, R 13 E; thence South on said North and South centerline of Section 3 to the center of said Section 3; thence West on the East and West centerline of said Section 3 to the Marion Center Road; thence South on said Marion Center Road to the common property line between the properties now or formerly owned by Herbert and Hilda Lepper and Arthur H. and Ella Doctor; thence West on said common property line to the North and South centerline of Section 4, T 29 N, R 13 E; thence North on said centerline of Section 4 to the center of said Section; thence West on the East and West centerline of said Section 4 to Trentman Road; thence continuing West on the East and West centerline of sections 5 and 6, T 29 N, R 13 E, to U.S. 27; thence Northwesterly along U.S. 27 to the North and South centerline of Section 31, T 30 N, R 13 E; thence North on said North and South centerline of Section 31 to the South property line of an 18.22 acre property now or formerly owned by Charles K. and E. E. Wians; thence following the Southerly line of the afore described Winans property to the Old Decatur Road; thence Northwesterly along the

1 Old Decatur Road to Anthony Boulevard; thence North on
2 Anthony Boulevard to the North line of Curdes South Acre
3 Addition; thence East on said North line to the West line
4 of Eastland Gardens Addition, Section B; thence North on
5 said West line to the North line of said Addition; thence
6 East on the North line of said Addition to the West line
7 of Hickory Grove Addition; thence North on the West line
8 of Hickory Grove Addition, Sections A, B, C, and D to the
9 North line of Hickory Grove Addition, Section D; thence
10 East on the North line of said Addition to Hessen Cassel
11 Road; thence South on Hessen Cassel Road to the East and
12 West centerline of Section 29, T 30 N, R 13 E; thence
13 East on said line to the West line of a 30.48 acre prop-
14 erty now or formerly owned by Fred B. and A. M. Buescher;
15 thence North on the West line of said property to the North
16 line thereof; thence East on the North line of said property
17 to the Trier Ditch; thence South along the Trier Ditch to
18 the East and West centerline of said Section 29; thence
19 East on said centerline to the center of said Section 29;
20 thence South on the North and South centerline of said
21 Section 29 to Tillman Road; thence West on Tillman Road
22 to Hessen Cassel Road; thence South on Hessen Cassel Road
23 to the South line of the North 1/2 of the NW 1/4 of Section
24 32, T 30 N, R 13 E; thence East on said South line of the
25 North 1/2 to the North and South centerline of said Section
26 32, thence North on said North and South centerline of
27 Section 32 to Tillman Road; thence East on Tillman Road
28 to the West line of the NE 1/4 of the NE 1/4 of Section
29 32, T 30 N, R 13 E; thence South on the West line of afore-
30 said NE 1/4 of the NE 1/4 to the South line thereof; thence
31 East on the South line of said NE 1/4 of the NE 1/4 to
32 Trentman Road; thence North on Trentman Road and the
33 Northerly extension thereof, to the South line of a 9.3
34 acre tract now or formerly owned by Alfred N. Bade; thence
35 East on the South line of said tract to Wayne Trace; thence
Northwesterly along Wayne Trace to the North line of said
Bade tract; thence West on the North line of said Bade
tract to the East line of Section 29, T 30 N, R 13 E;
thence North on the East line of said Section 29 to the
East and West centerline of Sections 28 and 29, T 30 N,
R 13 E; thence East along said East and West centerline
to the East line of properties now or formerly owned by
the New Haven Public Schools; thence North on the East
line of said tract; thence West on the North line of said
tract to Wayne Trace; thence Northwesterly on Wayne Trace
to the North line of Southwick Village Addition; thence
West on said North line to the Trier Ditch; thence North
along the Trier Ditch to Paulding Road; thence West on
Paulding Road to the North and South centerline of Section
20, T 30 N, R 13 E; thence North on said North and South
centerline of Sections 20 and 17 to the Moeller Road;
thence East on Moeller Road to the Pennsylvania Railroad;
thence North on the West line of a 22.61 acre property
now or formerly owned by Harbock Realty Company, Inc.;
thence East on said North line to Meyer Road; thence
North on Meyer Road to the South line of a 25.2 acre
tract now or formerly owned by International Harvester
Company; thence East, North and West on the perimeter of
said tract to Meyer Road; thence North on Meyer Road to
the Wabash Railroad; thence East along said Railroad to
East line of a tract now or formerly owned by Gertrude A.
Schuckman, et al; thence North on said East line to U.S.
#24 and #30; thence West on U.S. #24 and #30 to the West
line of the Gladioux Service Station property; thence
North on West line of said property to N.Y.C. Railroad;
thence East along said Railroad to West line of Section
9, T 30 N, R 13 E; thence North on said West line of
Section 9 to a point of beginning.

ORDINANCE CHECK-OFF SHEET

INFORMATION REGARDING ORDINANCE

CONTENTS OF ORDINANCE

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	ORDINANCE NO. <i>D-11-73</i>
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	SPECIAL SESSION
	APPROVED AS TO FORM AND LEGALITY <i>Yellw</i>
X	BILL WRITTEN BY
	DATE INTRODUCED <i>2-13-73</i>
	REFERRED TO SAID STANDING COMMITTEE <i>Hinga</i>
	REFERRED TO CITY PLAN
	LEGAL PUBLIC HEARING
X	LEGAL PUBLICATION <i>Feb. 13-73</i>
	JOINT HEARING
	DEPARTMENT HEARING
	HOLD FILE
X	PASS <i>2-13-73</i>
	DO NOT PASS
	WITHDRAWN
X	SUSPENSION OF RULES <i>2-13-73</i>
	PRIOR APPROVAL
	ORDINANCE TAKEN OUT OF OFFICE
	OTHER INSTRUCTIONS REGARDING ORDINANCE
	CORRECTIONS MADE TO ORDINANCE
	PEOPLE SPEAKING FOR ORDINANCE
	PEOPLE SPEAKING AGAINST ORDINANCE

X	COMMITTEE SHEET
X	VOTE SHEET
	PURCHASE ORDERS
	BIDS
	ORDERS, BIDS OR OTHER PAPERS TAKEN OUT AND BY WHOM
	LETTER REQUESTING ORDINANCE DRAWN UP BY CITY ATTORNEY
	COMMUNICATIONS FROM
	ZONING MAPS
	ABSTRACTS
	TITLES
	PRIOR APPROVAL LETTER

COUNCILMAN'S VOTE

	AYES	NAYS	ABSENT
BURNS	X		
HINGA	X		
KRAUS	X		
MOSES	X		
NUCKOLS	X		
D. SCHMIDT	X		
V. SCHMIDT	X		
STIER	X		
TALARICO	X		

COMMENTS:

February 14, 1973

Miss Helen Libbing
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, Indiana 46802

Dear Miss Libbing:

Please give the attached full coverage on the dates of February 16 and 23, 1973, in both the News Sentinel and Journal Gazette.

RE: Legal Notice of Common Council
of Fort Wayne, Indiana -
Authorizing the Board of Public
Works to bid at a foreclosure
sale of properties belonging
to INDIANA SUBURBAN SEWERS, INC.
and SUBURBAN SERVICES, INC.
Bill No. S-73-02-15
Special Ord. S-11-73.

Please send us four (4) copies of the Publisher's Affidavit.

Thank you.

Sincerely,

Charles W. Westerman
City Clerk

CWM/ne
ENCL: 1

Indiana, consisting of approximately 7,700 acres being described in detail as follows:

Legal Notices

Notice is hereby given that on the 13th day of February, 1973, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following S-11-73 Special Ordinance, to-wit:

BILL NO. 5-73-0215
SPECIAL ORDINANCE NO. 5-1123
AN ORDINANCE authorizing the Board of Public Works to bid at a foreclosure sale of properties belonging to and owned by the City of Fort Wayne and SUBURBAN SERVICES, INC.

WHEREAS, it is essential to the present and future health, safety and general development of the City of Fort Wayne, that the City and its environs be served with an adequate and efficient sewerage system, and that the City be relieved of the burden of paying under sound and financially responsible management; and

WHEREAS, during the late 40's and the mid-1960's the City of Fort Wayne had received many requests to extend its sewer services into areas of the City of Fort Wayne lying south of the city limits, and that the City is now extending southeast of its municipal limits and south of the Moomre River, which area has been designated as a sewerage problem area and which area is more specifically described in Exhibit A attached hereto.

WHEREAS, the City of Fort Wayne had proposed to construct an interceptor sewer in the northern portion of said area, which construction was contingent upon certain federal funds becoming available, which contingency did not occur; and

eral funds would not be available for the construction of said interceptor sewer, the City of Fort Wayne entered into an agreement with INDIANA SUBURBAN SEWERS, INC., which agreement was dated March 17, 1966 and which agreement was approved in Special Ordinance 280-66 which ordinance was adopted by the Common Council of the City of Fort Wayne on April 29, 1966.

WHEREAS, said agreement provided, in general, that INDIANA SUBURBAN SEWERS, INC. would construct a sewer system within the aforesaid area; that said system would conform with the standards and specifications of the City of Fort Wayne; and that the City of Fort Wayne would collect and dispose of the sewage collected by INDIANA SUBURBAN SEWERS, INC. within the aforesaid area; that INDIANA SUBURBAN SEWERS, INC. would compensate the City of Fort Wayne for such treatment; and that the City of Fort Wayne would have an option to purchase the sewer system of INDIANA SUBURBAN SEWERS, INC. within the aforesaid territory; and

WHEREAS, said agreement was approved by the Public Service Commission of Indiana, subject to certain exceptions not here material, by Order dated September 1, 1967 in Cause No. 31154; and

SEWERS, INC. entered into an agreement with SUBURBAN SERVICES, INC. under which the latter was to construct the sewage disposal system contemplated by the aforesaid agreement between the City of Fort Wayne and INDIANA SUBURBAN SEWERS, INC.; and

WHEREAS, the construction work on said sewer system had progressed to such a point that INDIANA SUBURBAN SEWERS, INC. was rendering sewage disposal service within the aforesaid area by the year 1969; and,

WHEREAS, the City of Fort Wayne began, in 1969, to treat sewage collected by INDIANA SUBURBAN SEWERS, INC.;

WHEREAS, the City of Fort Wayne and INDIANA SUBURBAN SEWERS, INC. have been engaged in controversy as to the compensation INDIANA SUBURBAN SEWERS, INC. is to pay the City of Fort Wayne for treatment of sewage; and

WHEREAS, INDIANA SUBURBAN SEWERS, INC. has paid no compensation to the City of Fort Wayne;

WHEREAS, INDIANA SUBURBAN SEWERS, INC. and SUBURBAN SERVICES, INC. have become delinquent in their accounts with certain secured credit-

WHEREAS, for many months the City of Fort Wayne has been concerned over the slowness with which construction of the sewer system was progressing and the City of Fort Wayne has been receiving, and continues to receive, requests for sewer service from persons situated within the aforesaid area described in Exhibit A; and

INDIANA SUBURBAN SEWERS, INC. and SUBURBAN SERVICES, INC. had become so serious by the winter of 1970-71 that the City of Fort Wayne, and INDIANA SUBURBAN SEWERS, INC. began negotiations looking toward the amendment of the aforesaid agreement so as to permit the City to purchase a portion of the aforesaid sewer system, thus providing funds with which

INDIANA SUBURBAN SEWERS, INC. could meet its obligations in part, and thus providing Fort Wayne with operating control over a portion of solid system and the right to receive and obtain all revenues accruing from the operation of such portion; and

WHEREAS, the City of Fort Wayne and INDIANA SUBURBAN SEWERS, INC. entered into an agreement signed by the Board of Public Works of the City of Fort Wayne under date of November 23, 1971, accepted by INDIANA SUBURBAN SEWERS, INC. under date of December 6, 1971, and approved in Special Ordinance No. S-773-71 adopted by the Common Council of

WHEREAS, said agreement, among other things, would have effected an amendment of the earlier agreement between the City of Fort Wayne and INDIANA SUBURBAN SEWERS, INC. and would have permitted the City of Fort Wayne to purchase a portion of the aforesaid sewer system for

WHEREAS, said purchase price was based upon an appraisal by B. H. Steeg and Associates in the fall of 1970, which appraisal has been reviewed and approved by the City Engineer and which sum was near-

WHEREAS, the parties became embroiled in controversy before the Public Service Commission of Indiana with regard to the description to the portion of the aforesaid sewer system which would have been sold, now

WHEREAS, by order dated December 22, 1972, in Cause No. 32876 said Public Service Commission of Indiana refused to approve said agreement executed in 1971:

WHEREAS, on December 20, 1972 the U.S.

[illegible][illegible][illegible][illegible][illegible]

West on said N 60 E
Ditch to Pauld
Vest on Paulding R.
and South centerline
of said N 60 E there
North and South cen-
terlines 20 and 17 to the Moel
East on Moeller Road
to the intersection of
said West line of a 22.61 ac.
or formerly owned
Company, Inc.; then
S 25.2 ac. tract now
owned by the same
on Meyer Road to
N 1/2 Sec. 9; thence East,
perimeter of said tra-
ct thence North on Mex-
abol road to the inter-
section of said North
tract to East line
or formerly owned
chuckman, et al; the
E 1/2 of a 24 ac. tract
of U.S. 24 and 30 to
the Gladieux Service S-
thence North on W
road to the intersection
East along said Railroad
Section 9, T. 30 N., R.
East on said West line
to the intersection of
time in full and on m-
ended by Stier, and
its part as follows:
Stiers, Hinga, Kraus. N

My commission expires...

October 25, 1975

Notary Public

the City of Fort Wayne began, in 1969, to treat sewage collected by and

WHEREAS, the City of Fort Wayne and INDIANA SUBURBAN SEWERS, INC. have been engaged in controversy as to the compensation INDIANA SUBURBAN SEWERS, INC. is to pay the City of Fort Wayne for treatment of sewage; and

WHEREAS, INDIANA SUBURBAN SEWERS, INC. has paid no compensation to the City of Fort Wayne for treating its sewage; and

WHEREAS, INDIANA SUBURBAN SEWERS, INC. and SUBURBAN SERVICES, INC. have become delinquent in their accounts with certain secured creditors; and

WHEREAS, for many months the City of Fort Wayne has been concerned over the slowness with which construction of the sewer system was progressing and the City of Fort Wayne has been receiving, and from time to time, requests for sewer services from persons situated within the aforesaid area described in Exhibit A2; and

WHEREAS, the financial difficulties of INDIANA SUBURBAN SEWERS, INC. and SUBURBAN SERVICES, INC. had become so serious by the winter of 1970-71 that the City of Fort Wayne, and INDIANA SUBURBAN SEWERS, INC., began negotiations looking toward the amendment of the aforesaid agreement so as to permit the City to purchase a portion of the aforesaid sewer system, thus providing funds with which INDIANA SUBURBAN SEWERS, INC. could meet its obligations in part, and thus providing Fort Wayne with operating contract to receive and obtain all revenues accruing from the operation of such portion; and

WHEREAS, the City of Fort Wayne and INDIANA SUBURBAN SEWERS, INC. entered into an agreement signed by the Board of Public Works of the City of Fort Wayne under date of November 23, 1971, and approved by INDIANA SUBURBAN SEWERS, INC. under date of December 6, 1971, 73-71 adopted by the Common Council of the City of Fort Wayne on December 28, 1971; and

WHEREAS, said agreement, among other things, would have effected an amendment of the earlier agreement between the City of Fort Wayne and INDIANA SUBURBAN SEWERS, INC. and would have permitted the City of Fort Wayne to purchase a portion of the aforesaid sewer system for the sum of One Million Thirty Seven Thousand Dollars (\$1,037,000.00), against which delinquent service charges were to be credited; and

WHEREAS, said purchase price was based upon an appraisal by B. H. Steag and Associates in the fall of 1970, which appraisal has been reviewed and approved by the City Engineer and which sum was nearly \$1,000,000.00 less than the sum requested by INDIANA SUBURBAN SEWERS of the purchase of such negotiations; and

WHEREAS, the parties became embroiled in controversy before the Public Service Commission of Indiana with regard to the description to the portion of the aforesaid sewer system which would have been sold pursuant to said agreement executed in 1971; and

WHEREAS, by order dated December 22, 1972 in Cause No. 52878 said Public Service Commission of Indiana refused to approve said agreement executed in 1971; and

WHEREAS, on December 20, 1972 the Allen Superior Court had entered judgment against INDIANA SUBURBAN SEWERS, INC. and SUBURBAN SERVICES, INC. in Cause No. 572-148, which action was captioned American Fletcher National Bank on Trust Company, plaintiff vs. Indiana Suburban Sewers, Inc. and Suburban Services, Inc., defendants to John Debever, defendant and cross-complainant; and

WHEREAS, said judgment ordered that American Fletcher National Bank and Trust Company recover from INDIANA SUBURBAN SEWERS, INC. and SUBURBAN SERVICES, INC. jointly and severally the sum of Eight Hundred Ninety Dollars and Thirty-One Cents (\$894.44-31) together with interest and costs, and said judgment further ordered that JOHN DEBEVER, INC. recover from INDIANA SUBURBAN SEWERS, INC. and SUBURBAN SERVICES, INC., jointly and severally, the sum of One Hundred Fifty-Four Thousand Eight Hundred Eighty Dollars and Thirty-Five Cents (\$154,880.35); and

WHEREAS, said judgment further ordered the sale on foreclosure of all real estate, including without limitation, easements, rights of way, and other interests which have been acquired for the purpose of installing a sewage disposal system, and sewer, both real and personal, including without limitation all pipes, sewers, interceptors, manholes, laterals, manholes, meters, valves and all connections and appurtenances thereto, which have been constructed, and all chattels, fixtures, and intangibles which have been acquired, within the rural area southeast of the City of Fort Wayne, Indiana, which has been franchised to Indiana Suburban Sewers, Inc., as a public utility, in Certificate of Territorial Authority No. 41 issued by the Public Service Commission of Indiana on September 1, 1962, in PSC Cause No. 3154, and also including said Certificate of Territorial Authority and all franchise rights thereunder, which is set forth in the mortgage recorded January 13, 1969, in the office of the Auditor of Allen County, Indiana, as instrument No. 723 in Book 932 at pages 361 and following, and all right, title, interest and claims of the defendants Indiana Suburban Sewers, Inc., and Suburban Services, Inc., and of all persons claiming by, from, under or through them to said mortgaged property; and

WHEREAS, the purchase of said property on foreclosure by the City of Fort Wayne would enable the City to begin operating so much of the sewer system as is completed, and to complete and operate the remainder of said system, thereby permitting the City to receive the revenues derived from said operation and freeing the City from dependence upon INDIANA SUBURBAN SEWERS, INC. as to the operation and benefit of construction of the sewer system from additional controversy with INDIANA SUBURBAN SEWERS, INC. and

WHEREAS, there are adequate funds in the depreciation account of the Sewer Utility of the City of Fort Wayne to pay the aforesaid price of One Million Thirty-Seven Thousand Dollars (\$1,037,000.00) for said property; and

WHEREAS, the Common Council of the City of Fort Wayne has previously adopted an ordinance authorizing the purchase of the above described property and wishes to rectify the purpose of said ordinance, to acknowledge the fact that the delinquent sewer charges owed the City of Fort Wayne by INDIANA SUBURBAN SEWERS will represent only a small part of the purchase price and their additional funds will be required in a substantial amount from the depreciation account of the Sewer Utility of the City of Fort Wayne; and

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. The Board of Public Works of the City of Fort Wayne is hereby authorized to purchase all the above described property to be sold at the foreclosure sale to be held by the Sheriff of Allen County, Indiana pursuant to the aforesaid judgment, for a sum not to exceed One Million Thirty Seven Thousand Dollars (\$1,037,000.00) which money shall be taken from the depreciation fund of the Sewer Utility of the City of Fort Wayne.

SECTION 2. The rates to be charged the several classes of users of property served shall be comparable to those charged other users and property in like circumstances.

SECTION 3. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor and legal publication thereof.

William T. Hingo, Councilman,
EXHIBIT A
Parts of Adams Township and Marion Township located in Allen County.

the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just set-off of the same has been paid

Larry E. Gerkow

10

My commission expires

[illegible][illegible][illegible]

NAYS: MOSES, D. SCHMIDT, V. SCHMIDT, SHER-
 TON.
 AYES: None.
 Date: 2-12-73.
 Passed: Charles W. Westerman, City Clerk.
 Passed and adopted by the Common
 Council of the City of Fort Wayne, Indiana,
 on the 11th day of February, 1973, at 10:00
 o'clock P.M., E.S.T.
 Winifred C. Moses, Jr., Presiding Officer.
 Charles W. Westerman, City Clerk.
 Present: Charles W. Westerman, City Clerk
 of Fort Wayne, Indiana, on the 14th day of
 February, 1973, at the hour of 10:00 a.m.
 A.M., E.S.T.
 Charles W. Westerman, City Clerk.
 Approved and adopted by the Common
 Council of the City of Fort Wayne, Indiana,
 of February, 1973, at the hour of 2:00
 o'clock P.M., E.S.T.
 William A. Lebonoff, Mayor.
 I, Charles W. Westerman, Clerk of the
 City of Fort Wayne, Indiana, do hereby cer-
 tify that the above and foregoing is a full
 true and complete copy of Special Ordinance
 No. 1973-10, as passed by the Common Council
 on the 13th day of February, 1973, and
 that said Ordinance was duly signed
 and attested by me on the 14th day of
 February, 1973 and now remains on file
 in the City of Fort Wayne, Indiana, in
 my office.
 WITNESS my hand, and the official seal
 of the City of Fort Wayne, Indiana, this
 14th day of February, 1973.
 CHARLES W. WESTERMAN,

2-17-23, City Clerk

October 25, 1975

My commission expires _____

it was approved by the Commission with exceptions effective Sept. 1 and 2. **SUBURBAN** is a partnership agreement between **INC.** under contract for the sewer-

To JOURNAL-GAZETTE Dr

FORT WAYNE, INDIANA

LINE COUNT

Head	number of lines
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Total number of lines in notice

COMPUTATION OF CHARGES

518 lines,.....columns wide equals.....equivalent lines at 288¢
cents per line 149.18

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)	(2)	<u>1.00</u>
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TOTAL AMOUNT OF CLAIM

150.18

DATA FOR COMPUTING COST

Width of single column 11 ems

Size of type $5\frac{1}{2}$ point

Number of insertions 2Size of quad upon which type is cast... $5\frac{1}{8}$

Pursuant to the provision and penalties of Ch. 89, Acts 1967.

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date February 28, 1973

Title _____ CLERK

Topic

RYER'S AFFIDAVIT

na } ss:
nty }

will be open to the pub-

Virginia Peart, equipment and family housing sponsor from Purcell University, Lafayette, will moderate panel consisting of Betty James, president of the Home Economics Association; Ruth Ann Fisher, extension agent; Thomas Dushoff, secretary, Indiana League; and representatives of the Environment.

The audience will have opportunity to ask questions and the panel respond.

To the public program, association members and their families will have a buffet dinner at Roma Jean Restaurant.

appeared before me, a notary public in and for said county and state, the
 _____ LARRY E. GERKEN _____, who, being duly sworn, says
 _____ CLERK _____ of the _____

JOURNAL-GAZETTE

the English language in the city of FORT WAYNE, INDIANA
in state and county aforesaid, and that the printed matter attached hereto is a true copy,
which was duly published in said paper for 2 time s, the dates of publication being
as follows:

February 17, 1973

February 23, 1973

Subscribed and sworn to before me this 28th day of February, 1978

My commission expires October 25, 1975

Common Council-City of Ft. Wayne
(Governmental Unit)

To NEWS-SENT INEL Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set)
— number of equivalent lines

Head number of lines

Body number of lines

Tail number of lines

Total number of lines in notice

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517

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518

COMPUTATION OF CHARGES

518 lines, columns wide equals. equivalent lines at 28¢
cents per line

\$ 149.18

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

(2)

1.00

TOTAL AMOUNT OF CLAIM

\$ 150.18

DATA FOR COMPUTING COST

Width of single column 11 ems

Size of type 5½ point

Number of insertions 2

Size of quad upon which type is cast 5½

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date February 28, 1973

A. M. Hostman
Title Clerk

I, the undersigned, do hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

DAVID IT

I, the undersigned, do hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

I, the undersigned, do hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

NEWS-SENT INEL

DAILY

newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time, the dates of publication being as follows:

February 17, 1973

February 23, 1973

Subscribed and sworn to before me this 28th day of February 1973

My commission expires October 3, 1975

